UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG - 5 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Charles Nicholl
President
SMS Modern Hard Chrome, LLC
12880 East Nine Mile Road
Warren, Michigan 48089

Dear Mr. Nicholl:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves SMS Modern Hard Chrome, LLC, docket no. **CAA-05-2015-0050**. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on August 5, 2015.

Pursuant to paragraph 68 of the CAFO, SMS Modern Hard Chrome Inc. must pay the civil penalty within 30 days of September 4, 2015. Your method of payment must display the case name (SMS Modern Hard Chrome, LLC) and the docket number.

Please direct any questions regarding this case to Kasey Barton, Associate Regional Counsel, at (312) 886-7163.

Sincerely,

Sarah Marshall
Chief
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

cc: Marcy Toney, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Kasey Barton/C-14J
Tom Hess/MDEQ
Chris Ethridge/MDEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No. CAA-05-2015-0050**
	)	
SMS Modern Hard Chrome, LLC	)	**Proceeding to Assess a Civil Penalty**
Warren, Michigan,	)	**Under Section 113(d) of the Clean Air Act,**
	)	**42 U.S.C. § 7413(d)**
Respondent.	)	
	)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is SMS Modern Hard Chrome, LLC, a limited liability company doing business in Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Judicial Review and Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations and alleged violations in this CAFO.

8. Respondent waives its right to obtain judicial review of this CAFO, its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 112(c) and (d) of the CAA, 42 U.S.C. § 7412(c) and (d), requires EPA to publish a list of categories of sources which EPA finds present a threat of adverse effects to human health or the environment due to emissions of hazardous air pollutants (HAP) and to promulgate emission standards for each source category. These standards are known as "national emission standards for hazardous air pollutants" or "NESHAP." EPA codifies these requirements at 40 C.F.R. Part 63.

10. Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3), and 40 C.F.R. § 63.4 prohibit the owner or operator of any source from operating such source in violation of any NESHAP applicable to such source.

11. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), effective January 25, 1995, EPA promulgated the NESHAP for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (Chrome Plating NESHAP) at 40 C.F.R. Part 63, Subpart N. 60 *Fed. Reg.* 4948. These regulations are codified at 40 C.F.R. §§ 63.340-63.348. On September 19, 2012, EPA amended the Chrome Plating NESHAP.

77 *Fed. Reg.* 58243. At all times relevant to this CAFO, the pre-amended Chrome Plating NESHAP regulations applied to Respondent's operations.[1]

12. The Chrome Plating NESHAP, at 40 C.F.R. § 63.340(a), provides that the affected source to which the NESHAP applies is, among other things, each chromium electroplating tank at facilities performing hard chromium electroplating.

13. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines "chromium electroplating tank" as the receptacle or container along with the following internal and external components needed for chromium electroplating: rectifiers, anodes, heat exchanger equipment, circulation pumps and air agitation systems.

14. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines "open surface hard chromium electroplating tank" as a chromium electroplating tank that is ventilated at a rate consistent with good ventilation practices for open tanks.

15. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines "hard chromium electroplating" as a process by which a thick layer of chromium (typically 1.3 to 760 microns) is electrodeposited on a base material to provide a surface with functional properties such as wear resistance, a low coefficient of friction, hardness and corrosion resistance.

16. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines a "small, hard chromium electroplating facility" as a facility that performs hard chromium electroplating and has a maximum cumulative potential rectifier capacity less than 60 million amp-hr/year.

17. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines "maximum cumulative potential rectifier capacity" as the summation of the total installed rectifier capacity associated with the hard-chromium electroplating tanks at a facility, expressed in amperes,

[1] The citations in this CAFO refer to the pre-amended Subpart N regulations.

multiplied by the maximum potential operating schedule of 8,400 hours per year and 0.7, which assumes that electrodes are energized 70 percent of the total operating time.

18. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines "air pollution control technique" as any method, such as an add-on air pollution control device or a chemical fume suppressant, that is used to reduce chromium emissions from chromium electroplating and chromium anodizing tanks.

19. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines "chemical fume suppressant" as any chemical agent that reduces or suppresses fumes or mists at the surface of an electroplating or anodizing bath.

20. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines "wetting agent" as the type of chemical fume suppressant that reduces the surface tension of a liquid.

21. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines "tensiometer" as an instrument used to measure the surface tension of a solution by determining the amount of force needed to pull a ring from the liquid surface. The amount of force is proportional to the surface tension.

22. The Chrome Plating NESHAP, at 40 C.F.R. § 63.341(a), defines "stalagmometer" as an instrument used to measure the surface tension of a solution by determining the mass of a drop of liquid by weighing a known number of drops or by counting the number of drops obtained from a given volume of liquid.

23. The Chrome Plating NESHAP, at 40 C.F.R. § 63.343(a)(1)(ii), requires the owner or operator of an existing hard chromium electroplating or anodizing tank to achieve compliance with the applicable emission limitations of the NESHAP no later than 2 years after January 25, 1995.

24. The Chrome Plating NESHAP, at 40 C.F.R. § 63.342(c)(1), provides that during tank operation, each owner or operator of an open surface hard chromium electroplating tank shall control emissions discharged to the atmosphere from that tank by either:

i. Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.015 milligrams of total chromium per dry standard cubic meter (mg/dscm) of ventilation air (6.6×10^{-6} grains per dry standard cubic foot (gr/dscf)) for all open surface hard chromium electroplating tanks that are affected sources other than those that are existing affected sources located at small hard chromium electroplating facilities; or

ii. Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.03 mg/dscm (1.3×10^{-5} gr/dscf) if the open surface hard chromium electroplating tank is an existing affected source and is located at a small, hard chromium electroplating facility; or

iii. If a chemical fume suppressant containing a wetting agent is used, by not allowing the surface tension of the electroplating or anodizing bath contained with the affected tank to exceed 45 dynes per centimeter (dynes/cm) (3.1×10^{-3} pound-force per foot (lb_f/ft)) as measured by a stalagmometer or 35 dynes/cm (2.4×10^{-3} lb_f/ft) as measured by a tensiometer at any time during tank operation.

25. The Chrome Plating NESHAP, at 40 C.F.R. § 63.343(c), provides that the owner or operator of an open surface hard chromium electroplating tank subject to the emission limitations of the Chrome Plating NESHAP shall conduct monitoring to demonstrate continuous compliance according to the type of air pollution control technique that is used to comply with the emission limitation.

26. The Chrome Plating NESHAP, at 40 C.F.R. § 63.343(c)(5)(i), provides that the owner or operator of an affected source complying with the emission limitations in 40 C.F.R. § 64.342 through the use of a wetting agent in the electroplating or anodizing bath shall determine the outlet chromium concentration during the initial performance test using the procedures in 40 C.F.R. § 63.344(c). The owner or operator shall establish as the site-specific operating parameter the surface tension of the bath using Method 306B ("Surface Tension Measurement and Recordkeeping for Tanks Used at Decorative Chromium Electroplating and Anodizing Facilities") at Appendix A of 40 C.F.R. Part 63, setting the maximum value that corresponds to compliance with the applicable emission limitation. In lieu of establishing the maximum surface tension during the performance test, the owner or operator may accept 45 dynes/cm as measured by a stalagmometer or 35 dynes/cm as measured by a tensiometer as the maximum surface tension value that corresponds to compliance with the applicable emission limitation.

27. The Chrome Plating NESHAP, at 40 C.F.R. § 63.343(c)(5)(ii), requires the owner or operator of an affected source to monitor the surface tension of the electroplating or anodizing bath. Operation of an open surface hard chromium electroplating tank at a surface tension greater than the value established during the performance test, or greater than 45 dynes/cm as measured by a stalagmometer or 35 dynes/cm as measured by a tensiometer if the owner or operator is using this value in accordance with 40 C.F.R. 63.343(c)(5)(i), shall constitute noncompliance with the standards.

28. Pursuant to Section 112(d) of the CAA, effective July 1, 2008, EPA promulgated the NESHAP for Area Source Standards for Plating and Polishing Operations, (Plating and

Polishing NESHAP) at 40 C.F.R. Part 63, Subpart WWWWWW. 73 *Fed. Reg.* 37741. These regulations are codified at 40 C.F.R. §§ 63.11504-63.11513.

29. The Plating and Polishing NESHAP, at 40 C.F.R. § 63.11504(a), applies to the owner or operator of a plating and polishing facility that is an area source of HAP emissions and meets the criteria in 40 C.F.R. § 63.11504(a)(1) through (3).

30. The Plating and Polishing NESHAP, at 40 C.F.R. § 63.11504(a)(1) through (3), sets forth the following applicability criteria:

> 1) The plating and polishing facility is a plant site that is engaged in one or more of the processes listed in paragraphs (a)(1)(i) through (vi) of this section, including electroless or non-electrolytic plating.
>
> 2) The plating and polishing facility is an area source of HAP emissions, where an area source is any stationary source or group of stationary sources within a contiguous area under common control that does not have the potential to emit any single HAP at a rate of 10 tons per year (tpy) or more and any combination of HAP at a rate of 25 tpy or more.
>
> 3) The plating and polishing facility uses or has emissions of compounds of one or more plating and polishing metal HAP, which, as defined in 40 C.F.R. § 63.11511, means any compound of the following metals: cadmium, chromium, lead, manganese and nickel. With the exception of lead, the plating and polishing metal HAP also includes any of these metals in the elemental form. Any material that does not contain cadmium, chromium, lead or nickel is amounts greater than or equal to 0.1 percent by weight (as the metal), and does not contain manganese in amounts greater than or equal to 1.0 percent by weight (as the metal), as

reported on the Material Safety Data Sheet for the material, is not considered to be a plating and polishing metal HAP.

31. The Plating and Polishing NESHAP, at 40 C.F.R. § 63.11505(a)(1), applies to each tank that contains one or more of the plating and polishing metal HAP and is used for, among other things, electroless plating.

32. The Plating and Polishing NESHAP, at 40 C.F.R. § 63.11511, defines "electroless plating" as a non-electrolytic process that uses or emits any of the plating and polishing metal HAP, in which metallic ions in a plating bath or solution are reduced to form a metal coating at the surface of a catalytic substrate without the use of external electrical energy.

33. The Plating and Polishing NESHAP, at 40 C.F.R. § 63.11505(b), provides that an affected source is "existing" if construction or reconstruction of the source commenced on or before March 14, 2008.

34. The Plating and Polishing NESHAP, at 40 C.F.R. § 63.11506(a), requires the owner or operator of an existing affected source to achieve compliance with the applicable provisions of the NESHAP no later than July 1, 2010.

35. The Plating and Polishing NESHAP, at 40 C.F.R. § 63.11507(g), requires the owner or operator of an affected new or existing plating and polishing process unit that contains, applies, or emits one or more of the plating and polishing metal HAP to implement the applicable management practices in 40 C.F.R. § 11507(g)(1) through (12), as practicable. These management practices are required to minimize emissions of HAP from the facility.

36. The Plating and Polishing NESHAP, at 40 C.F.R. § 63.11509(b), requires the owner or operator of an existing affected source to submit a Notification of Compliance Status before the close of business on July 1, 2010 and to include the information described in

40 C.F.R. § 63.11509(b)(2)(i) through (iv), which includes a list of affected sources and the plating and polishing metal HAP used or emitted by those sources, methods used to comply with the applicable management practices and equipment standards, a description of the capture and emission control systems used to comply with the applicable equipment standards and a statement by the owner or operator of the affected source as to whether the source is in compliance with the applicable standards or other requirements.

37. The Plating and Polishing NESHAP, at 40 C.F.R. § 63.11508(d)(2), requires the owner or operator of an affected source to demonstrate continuous compliance with the applicable management practices and equipment standards of the NESHAP by, among other things, preparing an annual compliance certification according to the requirements specified in 40 C.F.R. § 63.11509(c) and keeping it in a readily-accessible location for inspector review.

38. The Plating and Polishing NESHAP, at 40 C.F.R. § 63.11509(c), requires the owner or operator of an affected source to prepare an annual compliance certification report no later than January 31 of the year immediately following the reporting period in accordance with 40 C.F.R. § 63.11509(c)(1) through (7) which includes, among other things, a statement that the applicable management practices under 40 C.F.R. § 63.11507(g) have been implemented.

39. The Administrator of EPA (the Administrator) may assess a civil penalty of up to $37,500 per day of violation up to a total of $295,000 for violations that occurred after January 12, 2009, through December 6, 2013, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

40. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United

States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

41. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

42. Respondent owns and operates a plating facility located at 12880 East Nine Mile Road, Warren, Michigan (facility). The main plating operations at the facility include chrome and electroless nickel plating.

43. On July 10, 2012, EPA conducted an inspection of the facility.

44. On October 19, 2012, EPA issued Respondent a Request for Information under Section 114 of the CAA, 42 U.S.C. § 7414, seeking information about Respondent's compliance with the CAA. On November 15, 2012, Respondent submitted a response to EPA (Response).

45. Respondent performs hard chromium electroplating at the facility. Respondent owns and operates three "chromium electroplating tanks," as that term is defined at 40 C.F.R. § 63.341(a). Respondent identifies these tanks as Chrome Tanks #13, #15 and #20.

46. Respondent's hard chromium electroplating tanks are subject to the requirements of the Chrome Plating NESHAP.

47. Chrome Tank #13 was installed at the facility in 1964, and is therefore an existing source under the Chrome Plating NESHAP.

48. Respondent controls chromium emissions from Chrome Tank #13 through the use of a "chemical fume suppressant" containing a "wetting agent," as those terms are defined at 40 C.F.R. § 63.341(a).

49. Chrome Tank #13 is a ventilated tank and is therefore an "open surface hard chromium electroplating tank" as that term is defined at 40 C.F.R. § 63.341(a), and is therefore subject to the emission standards at 40 C.F.R. § 63.342(c)(1).

50. The Response indicated that on August 5, 1996, Respondent completed a performance test on Chrome Tank #13 to establish as the site-specific operating parameter the surface tension of the bath that corresponded to compliance with the emission limit of 0.015 mg/dscm, in accordance with 40 C.F.R. § 63.342(c)(1)(i). The results of the performance test established the site-specific operating parameter of 41 dynes/cm, which corresponded to an emission rate of 0.015 mg/dscm, as measured by a "tensiometer," as that term is defined at 40 C.F.R. § 63.341(a).

51. The Response indicated that Respondent does not own a tensiometer, and since the date of the performance test Respondent had used, and continued to use, a "stalagmometer," as that term is defined at 40 C.F.R. § 63.341(a) to monitor compliance with the 0.015 mg/dscm chromium emission limit in 40 C.F.R. § 63.342(c)(1)(i).

52. From August 5, 1996, through August 24, 2012, Respondent monitored Chrome Tank #13 using an operating parameter of 62 dynes/cm, as measured by a stalagmometer.

53. Respondent has not conducted a performance test using a stalagmometer to establish the surface tension of the bath as the site-specific operating parameter that shows compliance with the applicable chromium emission limits provided in 40 C.F.R. § 63.342(c)(1)(i)-(ii).

54. From August 5, 1996, to August 24, 2012, Respondent failed to control chromium emissions discharged to the atmosphere from Chrome Tank #13 by allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.015 mg/dscm

(6.6×10^{-6} gr/dscf), in violation of 40 C.F.R. § 63.342(c)(1)(i) and Section 112 of the CAA, 42 U.S.C. § 7412.

55. From August 5, 1996 to August 24, 2012, Respondent failed to monitor and operate Chrome Tank #13 for continuous compliance at a surface tension less than the value established during the performance test, in violation of 40 C.F.R. § 63.343(c)(5)(ii) and Section 112 of the CAA, 42 U.S.C. § 7412.

56. On August 24, 2012, Respondent began monitoring Chrome Tank #13 using an operating parameter of 45 dynes/cm as measured by a stalagmometer in accordance with the emission limit in 40 C.F.R. § 63.342(c)(1)(iii).

57. Respondent owns and operates a plating and polishing facility that is an area source of HAP emissions and is engaged in "electroless plating," as that term is defined at 40 C.F.R. § 63.11511, and is therefore subject to the Plating and Polishing NESHAP. 40 C.F.R. § 63.11504.

58. Respondent owns and operates four nickel electroless plating tanks. Respondent identifies these tanks as EN Tanks #7, #19, #29 and #30. These tanks were installed at the facility in 1968, 1973, 1975, respectively, and are therefore existing sources under the Plating and Polishing NESHAP. 40 C.F.R. § 63.11505(b).

59. The Response did not contain any Notification of Compliance Status Reports submitted for EN Tanks #7, #19, #29 and #30, as required by 40 C.F.R. § 63.11509(b) and requested in EPA's October 19, 2012, Information Request.

60. On April 23, 2013, Respondent submitted to EPA Notification of Compliance Status Reports for EN Tanks #7, #19, #29 and #30, as required by 40 C.F.R. § 63.11509(b).

61. Respondent failed to submit Notification of Compliance Status Reports for EN Tanks #7, #19, #29 and #30 no later than July 1, 2010, in violation of 40 C.F.R. § 63.11509(b) and Section 112 of the CAA, 42 U.S.C. § 7412.

62. The Response did not contain any annual compliance certification reports prepared and/or submitted along with any deviation reports as required by 40 C.F.R. § 63.11509(c) and requested in EPA's October 19, 2012, Information Request.

63. On July 29, 2013, Respondent submitted to EPA annual compliance certification reports for the years 2010, 2011 and 2012 as required by 40 C.F.R. § 63.11509(c).

64. For the years 2010, 2011 and 2012, Respondent failed to timely prepare an annual compliance certification report, in violation of 40 C.F.R. § 63.11509(c) and Section 112 of the CAA, 42 U.S.C. § 7412.

65. On March 13, 2013, EPA issued a Finding of Violation to Respondent for the violations of the Chrome Plating NESHAP and Plating and Polishing NESHAP described above.

66. On April 17, 2013, EPA and Respondent met to discuss the March 13, 2013, Finding of Violation.

Civil Penalty

67. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and cooperation, Complainant has determined that an appropriate civil penalty to settle this action is $100,000.

68. Within 30 days after the effective date of this CAFO, Respondent must pay a $100,000 civil penalty by electronic funds transfer, payable to "Treasurer, United States of America," and send the payment to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, Respondent must include Respondent's name and the docket number of this CAFO.

69. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Kasey Barton (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

70. This civil penalty is not deductible for federal tax purposes.

71. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

72. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

73. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO and EPA's Finding of Violation issued to Respondent on March 19, 2013, Docket Number EPA-5-13-MI-04.

74. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

75. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws.

76. Respondent certifies that it is complying fully with the Chrome Plating NESHAP at 40 C.F.R. Part 63, Subpart N and the Plating and Polishing NESHAP at 40 C.F.R. Part 63, Subpart WWWWWW.

77. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

78. The terms of this CAFO bind Respondent, its successors and assigns.

79. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

80. Each party agrees to bear its own costs and attorney fees in this action.

81. This CAFO constitutes the entire agreement between the parties.

SMS Modern Hard Chrome, LLC, Respondent

7-13-15
Date

Charles Nicholl
Charles Nicholl
President
SMS Modern Hard Chrome, LLC

United States Environmental Protection Agency, Complainant

7/28/15
Date

George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

3 August 2015
Date

Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the matter of: SMS Modern Hard Chrome, LLC
Warren, Michigan
Docket Number: **CAA-05-2015-0050**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing ***Consent Agreement and Final Order***, which was filed on August 5, 2015, in the following manner to the addressees:

Copy by Certified Mail
Return-receipt:

Charles Nicholl
President
SMS Modern Hard Chrome, LLC
12880 East Nine Mile Road
Warren, Michigan 48089

Copy by E-mail to
Attorney for Complainant:

Kasey Barton
barton.kasey@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: August 5, 2015

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 4949